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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/928,608	08/13/2001	Tsuyoshi Watanabe	44471-262265 (13700)	7518

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EXAMINER

CULBRETH, ERIC D

ART UNIT

PAPER NUMBER

3616

DATE MAILED: 11/19/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/928,608

Applicant(s)

WATANABE

Examiner

Eric D Culbreth

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 23 October 2002.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-6 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-6 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 1-6 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 1 and 4 now recite "an occupant" twice (claim 1, lines 1 and 5-6 of the clean copy of the claim filed 10/23/02; claim 4, lines 1 and 5-6 of the clean copy of the claim filed 10/23/02), which is a double inclusion (the language added to the preambles of claims 1 and 4 reciting an occupant in the claims filed 10/23/02 should be deleted).

In claim 1, lines 9 and 15 "generally box shape" and in claim 4, lines 9 and 15 "generally box shape" and "generally box like shape" are indefinite, as the bag base cloths do not form a "box" as generally understood.

Claim Rejections - 35 USC § 103

3. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

4. Claims 1-6 as best understood are rejected under 35 U.S.C. 103(a) as being unpatentable over Japanese Patent 9-99795 (cited by applicant) in view of Krickl (of record).

In Figure 1, Japanese '795 discloses upper and lower base cloths A and B with side and rear portions and smooth lower joining lines as claimed in claims 1 and 2. However, when the

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sheets are joined as in Figure 2, the curved lower joining line does not clearly cause a bulge of the lower portion toward the occupant, and noting claim 4, toward the occupant's abdomen. Krickl discloses a bag in which the seams along the lower side and rear facing portion result in the lower portion of the bag projecting toward the occupant (note Figure 1, where the lower portion of the bag projects away from the inflation hole 12). It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Japanese '795 to include a lower seam projecting the lower rear face toward the occupant such as taught by Krickl in order to better position the bag relative to the occupant. In the combination, the lower joining line of Japanese '795 would curve smoothly in such a manner that a middle portion of the joining line projects toward the occupant in keeping with Krickl's smooth lower joining line in Figure 1. As functionally recited in claim 4, the lower portion would project toward an occupant's abdomen if the bag is mounted on the steering wheel or instrument panel, as is conventional (i.e., this is a functional statement of intended use, as the occupant is not part of the invention). Regarding claims 3 and 6, in the combination Krickl's lower joining line along the edge 20 in Figure 2 has curvatures of different radii adjacent each other (note especially Figure 1, where the curvature along the lower edge gets gradually sharper when the bag is assembled), and these features would be included in the combination.

In response to applicant's arguments against the references individually on pages 5-6 of the 10/23/02 amendment, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986). Regarding applicant's argument that Krickl's lower portion would project toward the

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head of an occupant, this is not persuasive because, as noted above, this is a functional limitation dependent on where the bag is mounted on the vehicle (which is not claimed) and the intended use of the bag. As also noted above, arranging air bags so that the lower portion projects towards the occupant's abdomen is conventional in the art, and hence obvious at any rate.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Eric D Culbreth whose telephone number is 703/308-0360. The examiner can normally be reached on Monday-Thursday, 9:30-7:00 alternate Fridays off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Paul Dickson can be reached on 703-308-2089. The fax phone numbers for the organization where this application or proceeding is assigned are 703/746-3508 for regular communications and 703/308-2571 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1113.

Eric Culbreth

Eric D Culbreth
Primary Examiner
Art Unit 3616

11/18/02

ec

November 18, 2002